

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Steven M. and Marta E. Kepford,**  
Petitioner-Appellants,

v.

**Linn County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-57-0051**  
**Parcel No. 26-10194-27002-00000**

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On October 28, 2009, the above-captioned appeal came on for hearing before the State of Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants, Steve M. and Marta E. Kepford, were self-represented and submitted evidence in support of their petition. The Respondent-Appellee, Linn County Board of Review, designated Assistant Linn County Attorney Jeff Clark as its representative and participated by telephone. A digital record of the proceeding was made. The Appeal Board now having reviewed the record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Steven M. and Marta E. Kepford, owners of property located at 2685 Silver Oaks Trail, Marion, Iowa, appeal from the Linn County Board of Review decision reassessing their property.

The real estate was classified as residential for the January 1, 2009, assessment and valued at \$496,713; representing \$74,365 in land and \$422,348 in improvement value. The Kepfords protested to the Board of Review on the ground that the property's assessment is not equitable as compared with assessments of other like property in the county under Iowa Code section 441.37(1)(a). In response to the protest, the Board of Review notified the Kepfords that the January 1, 2009, assessment would be

reduced. The Board of Review reassessed the property at \$461,543 representing \$74,365 in land and \$387,178 in improvement value.

The Kepfords then filed an appeal with this Board on the ground of inequity and seek \$121,543 in relief. The Kepfords value the property at \$340,000.

The subject property is a one-story, 2155 square-foot, frame dwelling built in 1997 with a 764 square-foot, attached garage, located on a 95 x 210 golf course lot. The subject property was purchased in 2006 for \$490,000.

Mr. Kepford submitted an appraisal from Dale W. Morrison originally dated for July 2009. However, the appraisal was updated to reflect the assessment date of January 1, 2009. Mr. Morrison valued the subject property at \$360,000. He did not testify at hearing.

Mr. Kepford also submitted an appraisal by Gary Caldwell which valued the subject property as of January 1, 2009. Mr. Caldwell did not testify at hearing.

Mr. Kepford testified that he believed the two appraisals he submitted to this Board shifted the burden to Linn County under Iowa Code section 441.21(3). In Mr. Kepford's opinion, the two appraisals reflect the fair market value of the subject property as of January 1, 2009. Although Mr. Kepford contends he shifted the burden of proof to the Board of Review by providing two appraisals, without having the appraisers testify at hearing, he did not fully shift the burden. However, our analysis does not end here.

The five properties Mr. Kepford listed as equity comparables are two-story dwellings, whereas the subject property is a one-story dwelling. Additionally, only one of the properties is located on a golf course.

Mr. Kepford also submitted a property comparison summary sheet of comparable sales indicating the properties in his immediate area sell in the range of \$250,000 to the upper \$300,000 range.

Dave Ellis, Deputy Assessor, testified at hearing on behalf of the Board of Review. Mr. Ellis testified that in his opinion, the properties submitted by Kepford as equity comparables were not comparable to the subject property. Mr. Ellis testified that many of the properties were two-story dwellings, not on a golf course, and one property was almost ten miles away. Mr. Ellis also testified that the property located next door to the subject property was, in his opinion, a distress sale. Mr. Ellis also submitted, on behalf of the Board of Review, five properties that, in his opinion, were comparable. The Board of Review also submitted data of upper valued residential realty sales that it believes supports that the subject property is equitably assessed.

The Board of Review also submitted an appraisal review completed by Craig Gossart. Mr. Kepford objected to this exhibit and requested it be omitted on the ground the appraisal was not signed and subject to appraisal ethics. This Board notes that appraisal certification is not a requirement for ad valorem tax appraisals submitted to this Board.

We also note that the properties submitted by Linn County, as equity comparables, are the best evidence and demonstrate the fact that the subject property is equitably assessed. Mr. Kepford's comparables consisted mostly of two-story properties, not on a golf course. Although Mr. Kepford submitted two appraisals to indicate the market value of the property, this is an appeal on the ground of equity. This Board finds that Mr. Kepford has failed to prove his property is not equitable with other like property, even though the two appraisals may indicate that the property is not equitable with other like property.

### ***Conclusions of Law***

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal



Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

The burden of proof is upon the appellant; however, when the appellant offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation." Iowa Code § 441.21(3). To be competent evidence, "the testimony of the disinterested witnesses must comply with the statutory scheme for property valuation for tax assessment purposes." *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 279 (Iowa 1995). Even if the appellant has not shifted the burden of proof, he may still prevail on his claim by establishing "by a preponderance of the evidence that the challenged valuation is excessive, inadequate, inequitable or capricious." *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986). In this case, Mr. Kepford contends he shifted the burden of proof to the Board of

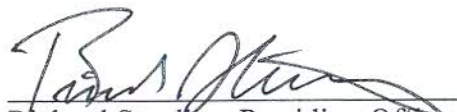
Review by submitting two appraisals of his property. The appraisers did not "testify" as required by the statute and therefore, he did not shift the burden, but he could still prevail on his claims.

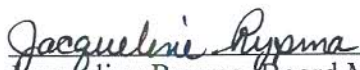
To prove equity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion that Mr. and Mrs. Kepford failed to present persuasive evidence sufficient to support the claim that their assessment was not equitable as compared with assessments of other like property in the taxing district.


In the opinion of the Appeal Board, the evidence does not support the claim that the property was not equitable with other like properties. We, therefore, affirm the assessment of the Steve M. and Marta E. Kepford property as determined by the Linn County Board of Review as of January 1, 2009.

IT IS THEREFORE ORDERED that the property assessment of \$461,543 as of January 1, 2009, set by the Linn County Board of Review is affirmed.

Dated this 11 day of December, 2009.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

  
Karen Oberman, Board Chair  
Not Present at Hearing/Reviewed Record

Copies to:

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ATTORNEY FOR APPELLEE

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 12-11, 2007

By: ☒ U.S. Mail ☐ FAX  
☐ Hand Delivered ☐ Overnight Courier  
☐ Certified Mail ☐ Other

Signature

*Jeffrey Clark*